# COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT STANDARD POLICY AND PROCEDURE

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Executive Director	1111	
SUBJECT TITLE: ACCESS POLICY FOR CERTIFIED EMPLOYEE ORGANIZATIONS TO COMMUNICATE WITH DEPARTMENT EMPLOYEES		
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#### A. General

On November 2, 2007, Governor Bill Ritter, Jr., issued Executive Order D 028 07 authorizing partnership agreements with state employees. The Executive Order was intended "to enhance the delivery of services and products to the people of Colorado and ... to make state government more effective, efficient, reliable, and accountable." The Executive Order also states, "[T]ruly engaging ... employees so they become more positive and productive contributors to the organization and the decision-making process requires a structure to facilitate their involvement. Employee-management partnerships provide that structure."

### **B.** Purpose

This policy establishes an orderly process for effectuating the implementation of Executive Order D 028 07 and the recent changes to the Department of Personnel & Administration Board Rules (Appendix A) regarding access of the "certified employee organization" to provide general information to employees within the state personnel system. In addition, the policy is intended to address services sponsored by or through the Department for the benefit of Department employees or other functions that, in the opinion of the Department, benefit the employees and create a more effective and efficient workplace.

To ensure compliance with all rules, standards and policies of the department, this SPP must be read in conjunction with SPP-0062, as amended, which is incorporated herein by reference as if fully typewritten herein.

For purposes of this policy, "certified employee organization(s)", as referenced throughout this policy, is defined as Colorado WINS (COWINS), the exclusive bargaining agent pursuant to Executive Order D 028 07.

For a complete listing of definitions and exclusions to this policy, please see Appendix B and Executive Order D 028 07.

#### C. Procedure

Acceptable forms of communication between a certified employee organization and department employees; (subject to the limitations identified below) include personal contact, email access, telephone access, and bulletin boards as identified below:

#### 1. PERSONAL CONTACT WITH DEPARTMENT EMPLOYEES

a. Subject to the limitations in this policy, employees are free to meet with an organization's representatives and participate in organization activities during normal breaks, lunch intervals, after hours, or through the use of approved annual leave by the employee in the on-site locations described in SPP-0062, *Departmental Facilities Usage*, or off-site gatherings.

# b. New employees

- i. The certified employee organization may provide to OHR packets of information that describe or promote membership and activities. When made available, the department will include such materials in new employee orientation packets. The information contained in the packets must be informative and factual in nature. The information contained in the packets will be limited to certified employee organization business and shall not include partisan political material, internal political disputes, disparagement of individuals or organizations, or statements disparaging State or departmental management.
- ii. The parties acknowledge that the certified employee organization wishes to have face-to-face time with new employees. Therefore, once each calendar month, at a mutually agreed to and duration of time, adequate space in the break room area (or a mutually agreed to on-site location), which does not interfere with daily operations of the work site, shall be made available to the certified employee organization to set up and staff an informational table for the purpose of talking to and distributing literature to new department employees. The certified employee organization representatives will conduct themselves in a professional manner and shall respect the request of any individual who does not wish to engage in a discussion or accept literature. The new department employees may voluntarily attend these introductory activities during non-working times as defined in Paragraph 1.a. above. In the event of a scheduling conflict, state business shall always have priority.

# 2. EMAILS TO DEPARTMENT EMPLOYEES

- a. Emails to Department employees from a certified employee organization containing information about the organizational events, meetings and state employee-related news sent through their work email accounts are permitted as described below:
  - i. Representatives shall submit a draft copy of any email to be broadcast to the Director of Human Resources for preapproval.
  - ii. Representatives will not use any other e-mail means to contact department employees (including partnership unit employees) at the worksite, other than employee representatives, without advance and express written agreement.
  - iii. Emails from certified employee organization representatives to Department employees shall be by volume (broadcast) email only.
  - iv. Volume emails must be transmitted after 6:00 p.m. and before 8:00 a.m. or on weekends.
  - v. Volume emails <u>must not</u> display the list of recipients. The certified employee organization may either send the email message to a mailing list using the department's mail servers or blind carbon copy (using the bcc header) to the recipients. Using a mail alias, nickname, or group address book from within a mail program or putting the addresses on the "to" or "cc" header is <u>not</u> sufficient.
  - vi. Volume email content must be informative and factual in nature. Such e-mails will be limited to certified employee organization business and shall not include partisan political material, internal political disputes, disparagement of individuals or organizations, or statements disparaging State or departmental management.
  - vii. Complaints regarding email content shall be directed to the CDLE Director of Human Resources, 633 17<sup>th</sup> Street, Suite 1200, Denver, CO 80202.
  - viii. To ensure the security of the state email system, emails may not contain attachments.
  - ix. Representatives may only send one volume email per calendar month. The certified employee organization may request approval from the CDLE Director of Human Resources for limited additional broadcasts in addition to the monthly option. Such requests for additional broadcasts shall not exceed one per month and may be denied by the CDLE Director of OHR, if in his/her sole discretion the content can await future scheduled broadcasts.
  - x. Employees who receive volume e-mails and do not wish to receive such emails may delete the emails from the certified employee organization.
  - xi. The certified employee organization may contact elected employee representatives via assigned email addresses on an occasional basis as necessary to inform them of important developments.
- b. Failure to comply with these email procedures may result in electronically blocking all future broadcast email of the certified employee organization as an improper interference with public business.

#### 3. TELEPHONE ACCESS.

- a. Unsolicited phone calls to employee work sites are prohibited, including, but not limited to, membership solicitation or recruitment.
- b. Unsolicited telephone calls by the certified employee organization concerning information about the organization, events, meetings and state employee-related news to department-assigned employee phone numbers are prohibited unless otherwise authorized herein below.
- c. The certified employee organization may contact elected employee representatives via assigned work phones on an occasional basis as necessary to inform them of important developments.
- d. Communications by the certified employee organization representatives shall not exceed one per day and no one call shall exceed 5 minutes in duration.
- e. Failure to comply with these telephone procedures may result in barring all telephonic communications from the certified employee organization with the Department and its employees as an improper interference with public business.

#### 4. BULLETIN BOARDS

- a. The following provisions shall apply to certified employee organizations using or seeking to use bulletin boards in department facilities:
  - i. To the extent that the certified employee organization finds the available space to be inadequate regarding space or location, the certified employee organization may provide bulletin boards (lockable or otherwise) at its sole expense at work locations mutually agreed to on a local basis, for the exclusive use of the certified employee organization, all subject to leasing and physical limitations. If the certified employee organization installs a bulletin board that is lockable, the certified employee organization shall provide the Director of OHR with a key in order to enforce the provisions of this policy. Should the executive order or the Partnership Agreement expire or be revoked or rescinded, the title to the bulletin board shall revert automatically to the Department.
  - ii. The certified employee organization shall be responsible for all items posted on the bulletin board. Each item posted shall be dated and include the name, phone number and email address of the certified employee organization's representative approving the posting.
  - iii. Postings will be limited to certified employee organization business and shall not include partisan political material, internal political disputes, disparagement of individuals or organizations, or statements disparaging State or departmental management.
- b. In situations where space on existing bulletin boards is adequate, Department employees, who are members of the certified employee organization, may post flyers on bulletin boards in the designated areas (e.g., break rooms or existing bulletin boards).
- c. Flyers will be displayed on a first come first serve basis.
- d. If the board is crowded, the certified employee organization may not remove other posted flyers in order to place its flyer on the bulletin board.

- e. All flyers must be sponsored by the certified employee organization and the name of the certified employee organization must be printed or displayed on the poster.
- f. Flyers must be professional in appearance. Handwritten material may not be posted.
- g. The certified employee organization shall be responsible for the removal of its flyers. The certified employee organization agrees to remove information that is no longer applicable. Once flyers are removed, they shall be discarded in the recycle bin.
- h. The recommended flyer size is 8 1/2" x 11", and not to exceed 11" x 17".
- i. The certified employee organization may be required to remove flyers because of space limitations.
- j. Any unauthorized posting of flyers, flyers left on tables, or flyers hung outside of the approved boards will be removed and the certified employee organization may be held responsible for any damage incurred upon removal.
- k. The Department does not assume responsibility for materials removed, damaged or stolen.
- 1. Permission to display materials does not imply the Department's endorsement of the certified employee organization, its policies or beliefs.
- m. Failure to comply with these bulletin board procedures may result in barring some or all postings, flyer, signs, handbill, and bulletin board privileges of the certified employee organization with the Department and its employees as an improper interference with public business.

# D. Certified Employee Organization Work Release Time

- a. During jointly-sponsored partnership activities, employee-management engagement necessitates in-person dialogue and shared work on such partnership issues. The Department and the certified employee organization recognize that time spent by partnership unit employees on jointly-sponsored partnership issues is time spent in the interest of the taxpayers, the Department, and the certified employee organization. This jointly-sponsored partnership relationship depends upon assigned employees and managers being released from normal work responsibilities to so engage, without charge to pay or leave of participating employees.
- b. When jointly-sponsored partnership activities are undertaken, all parties shall negotiate in good faith regarding time, place and duration of all activities and the number of employee representatives assigned to any tasks whether the task is involved in a vertical process or a horizontal process.
- c. Any employee identified as a representative of the certified employee organization, management, or a subject matter expert for participation in any jointly-sponsored partnership processes shall conform to departmental requirements relating to notice of request for administrative or other paid leave. That employee will also work in good faith with the Department's representatives in achieving ways to minimize the effects of the planned absence. In this regard the employee shall provide ample advance notice to the Director of OHR.
- d. In the event that jointly-sponsored partnership meetings are scheduled on short notice and absent an agreement to the contrary, no more than three employee representatives will be designated for participation, subject to departmental notice, leave requests, workload, and related requirements.

- e. Nothing in this policy shall be construed to authorize paid release time for employees to participate in matters that are purely internal to the certified employee organization such as organizing, political or governance activities of the certified employee organization.
- f. The Department and the certified employee organization may experiment with the optimal use of telephone and video conferencing to reduce travel and minimize release time.
- g. The Department and the certified employee organization understand that there will be occasional conflicts among individuals related to the partnership process. Both are committed to seeking amicable and effective resolution of such matters in the most informal and conciliatory manner suited to the circumstances.
- h. If a member of a partnership unit reasonably believes that a supervisor or manager is interfering with his/her rights, responsibilities or opportunities as a partnership unit member, he/she may contact a staff member of the certified employee organization or an elected representative of such organization to forward the specifics of the concern to the Director of OHR (or designee) to attempt to resolve the matter amicably.
- i. Conversely, if an employee, supervisor or manager believes that a certified employee organization's member or representative is impinging on his/her freedom of association or interfering with the work of his/her unit, that employee, supervisor, or manager may refer the matter to the Director of OHR (or designee).
- j. If such conflicts arise, the Director of OHR (or designee) will contact the designated certified employee organization or employee representative to attempt to resolve the matter amicably. If the matter is not resolved to the mutual satisfaction of those involved, the matter may be referred to the Executive Director in order to resolve the matter in a mutually agreeable fashion.
- k. In cases where an informal settlement between the parties appears to set an inadvisable precedent for all partnerships between other state agencies and the certified employee organization, the Governor's Designee is authorized to advise the Executive Director and the certified employee organization regarding such inadvisable provisions.

# E. Failure to Comply.

- a. Employees or the certified employee organization may submit complaints or suggestions regarding implementation of this access protocol in writing to the Department's Human Resources Director via email or letter. The Department will promptly investigate all complaints and take appropriate action.
- b. Failure to comply with these procedures may result in cancellation of opportunities of the certified employee organization to access, communicate, and meet with Department employees as an improper interference with public business.
- c. The Department retains exclusive authority to make determinations concerning issues not covered by this policy. In doing so, the Department shall primarily consider its statutory mission or schedule and departmental policy and regulations, in addition to the well-being of all Department employees and the citizens served by the Department and Executive Order D 028 07. The taxpayers and citizens shall be the ultimate beneficiaries in any determination.

# F. Exclusions.

a. This policy shall not apply to any federal agency employees and state employees who are excluded from partnership units under the terms of the Executive Order.

Questions regarding this Policy should be addressed to the Director of Human Resources, (303) 318-8200. The Department reserves the right to amend, revise or revoke this Policy at any time with or without notice.

## Appendix A

State Personnel Board Rules include the following principles regarding relationships with employee organization:

Board Rule 1-18. Employees have the right to associate, self-organize, and designate representatives of their choice. Membership in any employee organization or union is not a condition of state employment. No employee may be coerced into joining or not joining and solicitation of members shall not occur during work hours without the approval of the appointing authority. The employee's representative may confer, with prior consent from the supervisor, on employment matters during work hours. Such conferences should be scheduled to minimize disruption to productivity and the general work environment. A supervisor's consent shall not be unreasonably withheld.

Board Rule 9-3. Discrimination against any person is prohibited because of race, creed, color, gender (including sexual harassment), sexual orientation, national origin, age, religion, political affiliation, organizational membership, veteran's status, disability, or other non-job related factors. This applies to all employment decisions.

# Appendix B

#### A. Definitions.

- (1) "Department" is defined as the Colorado Department of Labor and Employment (CDLE).
- (2) "Department Employee(s) or "employee(s)" is defined as an individual(s) who is/are employed by the Colorado Department of Labor and Employment.
- (3) "Department Facilities" is defined as any State-owned or leased computerized, telephonic (including facsimile) or other communications systems and/or building or structure leased or owned by the Colorado Department of Labor and Employment.
- (4) "Certified employee organization(s)", as referenced throughout this policy, shall have the same definition as provided in Executive Order D 028 07.
- (5) "Employee Representative" is defined as a State employee who is:
  - (a) An eligible member of a partnership unit created pursuant to Executive Order D 028 07 (i.e., not excluded from the executive order);
  - (b) Has been elected by members of one or more respective partnership units to participate in vertical, horizontal or system-wide partnership activities; or who has otherwise been designated by a certified employee organization to participate in such activities; and
  - (c) Has been identified in writing to the Governor's Designee.
- (6) "Governor's Designee", as referenced throughout this policy, shall have the same definition as provided in Executive Order D 028 07.
- (7) "Individual" is defined as any Department employee or duly authorized representative of any public entity, private entity, or employee organization.
- (8) "Organization" is defined as any individual, public entity, private entity, or certified employee organization that seeks permission to contact Department employees.
- (9) "Volume (broadcast) or blast email" is defined as mass emails that: (a) have not been specifically requested by the recipients; (b) are addressed to all Department employees (unless the employee(s) use the opt out provisions established in paragraph II (1) (viii) below); and (c) contains information of broad general interest to multiple state employees, but does not concern a specific employment matter between an employee(s) and his/her/their representative.
- (12) "OHR" is defined as the Colorado Department of Labor and Employment's Office of Human Resources.